

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

ANIEL O. GRILLASCA-PIETRI
Plaintiff

v.

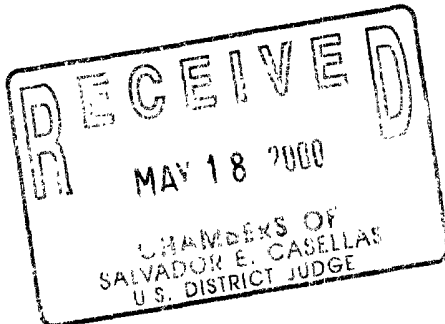
PORTORRICAN AMERICAN
BROADCASTING, CO., INC., et. al.
Defendants

Civil No. 97-2933(SEC)

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U.S. DISTRICT COURT
SAN JUAN, P.R.

ORDER

MOTION	RULING
<p>Docket #38 Request to Supplement Motion for Summary Judgment</p>	<p>Denied, inasmuch as Defendant's summary judgment motion is pending before the Court since December 15, 1999, (Docket #24), the opposition and reply have been filed and the matter is already under the advisement of the Court as of February 25, 2000. (See Dockets # 33 & 36). Any further delays in the consideration of this matter at this juncture will only cause undue prejudice and a congestion in the Court's docket. In addition, in light of the Supreme Court's recent holding in <u>Carolyn C. Cleveland v. Policy Management Systems Corporation, et. al.</u>, 526 U.S. 795 (1999), a disability award under the Social Security Act is not determinant or dispositive of a plaintiffs' ADA claims. <u>Id.</u> at 797-798. The standard on summary judgment remains that the plaintiff must make "a showing sufficient to establish the existence of an element essential to [his] case, and on which [he] will bear the burden of proof at trial." <u>Id.</u> at 805-806." And the plaintiff still bears the burden of proof to establish that he is disabled within the meaning of the act. <u>Id.</u> at 806. Under <u>Cleveland</u>, <u>supra</u>, Plaintiff must simply provide a sufficient explanation for the apparent contradiction. <u>Id.</u> at 806. Finally, the Court notes that the alleged "new evidence of a social security claim" is not so "new". Defendant's own exhibit confirms that the Plaintiff had authorized access to his file at the social security administration since June 11, 1999. (Docket #39, Exhibit 1).</p>
<p>Docket #39 Motion Regarding New Evidence in Support of Summary Judgment</p>	<p>Denied. <u>See</u> above.</p>



DATE: May 15, 2000

SALVADOR E. CASELLAS
 United States District Judge

(2)

A

(43) no